

Members

Rep. William Crawford, Chairperson
Rep. Charlie Brown
Rep. Peggy Welch
Rep. Timothy Brown
Rep. Suzanne Crouch
Rep. Don Lehe
Sen. Patricia Miller
Sen. Robert Meeks
Sen. Ryan Mishler
Sen. Sue Errington
Sen. Vi Simpson
Sen. Connie Sipes



SELECT JOINT COMMISSION ON MEDICAID OVERSIGHT

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MEETING MINUTES¹

Meeting Date: September 16, 2008
Meeting Time: 9:00 A.M.
Meeting Place: State House, 200 W. Washington
St., Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Rep. William Crawford, Chairperson; Rep. Timothy Brown; Rep. Suzanne Crouch; Sen. Patricia Miller; Sen. Robert Meeks; Sen. Sue Errington.

Members Absent: Rep. Charlie Brown; Rep. Peggy Welch; Rep. Don Lehe; Sen. Ryan Mishler; Sen. Vi Simpson; Sen. Connie Sipes.

Chairperson Crawford called the meeting to order at 9:07 a.m. and explained that a few Commission members were not able to travel to Indianapolis due to flooding in parts of the state. Chairperson Crawford read the statutory charges of the Commission.

FSSA Disproportionate Share Hospital (DSH) payment presentation

Secretary Mitch Roob, FSSA, testified that DSH funding is important to Indiana hospitals. Secretary Roob gave a Power Point presentation that contained a chart of the

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

2008 supplemental payments. See Exhibit 1, page 6. \$250-\$800 million have been brought into the state through the DSH or other leveraging programs. Intergovernmental transfers (IGTs) historically have been used through distribution transfers by the Marion County Health and Hospital Corporation, Clarian/Indiana University, municipal entities, state mental health hospitals, and other state appropriations. Currently, the federal government is considering changing the types of entities that may perform IGTs and if Clarian is not allowed by the federal government to do this in the future, it would result in a \$100 million (\$300 with federally leveraged dollars) loss in funding. When asked when Secretary Roob would know whether Clarian would be allowed to continue IGTs, Secretary Roob stated that the federal moratorium on this issue expires April 1, 2009, and resolution may also depend on the presidential election. State legislation may be needed to allow for changes if the federal government decides to make this change but does not act before the end of the 2009 legislative session. Possible alternatives include a further increase in the cigarette tax, a provider fee, or changes in how Indiana University is funded so that it would then qualify to continue making the IGTs. Riley's Children Hospital will be directly affected by this loss in revenue since eighty percent of Riley's patients are Medicaid recipients.

When asked about the federal Inspector General's investigation into \$80 million of leveraged federal funds by the state's psychiatric hospitals, Secretary Roob stated that this investigation is from the time period of 2000- 2003 concerning paperwork and the manner in which federal funds were leveraged. Secretary Roob commented that FSSA does not believe that the state did anything wrong concerning this matter and is still in negotiations with the federal government. Secretary Roob does not believe that a change in federal administration will affect the negotiations on this matter.

Secretary Roob discussed the changes to DSH as a result of HEA 1001-2008, in which funding of HCI was moved from local property taxes to sales taxes. Marion County was offered \$40 million for 2009 since Marion County did not have a HCI tax. This distribution was only agreed on for 2009, and the issue will probably have to be addressed in the budget this year for the subsequent years. Before the changes made in 2008, Lake County hospitals put up the majority of the IGT, and usually received 100% of the hospitals' capitated amount in return, even though not all hospitals received the hospitals' full capitated amount. Now, FSSA will have the same amount of generated IGTs, but the source of the dollars have changed, and the distribution among the hospitals in relation to the hospitals' capitated amount will probably change as well.

In response to a question about whether \$50 million of DSH money was transferred to the Healthy Indiana Plan (HIP), Secretary Roob stated that it was and this was a result of the negotiations with the federal government concerning payment under HIP for non-parental adults. When asked whether FSSA had statutory authority under HEA 1678-2007 to make this transfer, Secretary Roob said yes. Chairperson Crawford requested that Secretary Roob provide the Commission with the particular language in the bill that authorized the use of this money. There was a discussion on whether the hospitals were financially hurt by this transfer of money and about hospital support for HIP because of its coverage for non-parental adults.

Chairperson Crawford told Secretary Roob that it would be very helpful if FSSA provided training to legislative staff on DSH since it is a very complicated program.

Discussion ensued about the federal Emergency Medical Treatment and Active Labor Act (EMTALA) and its requirements on hospitals to provide triage and screening for any patient who presents at an emergency room. Staff was requested to look at how other states comply with EMTALA.

Secretary Roob stated that possible actions concerning DSH include: (1) creating new streams of IGTs; (2) providing supplemental funding to Riley Children's Hospital; (3) creating new coverage programs for uninsured Indiana residents, including subsidizing individuals to participate in employer health plans or in the private market; (4) increasing payments to hospitals for Medicaid recipients; or (5) changing disability coverage from federal 209(b) status to 1634 status (deeming that an individual who is eligible for federal SSI is also eligible for Medicaid).

TANF Changes Update

Many programs are funded in Indiana through Indiana's federal TANF block grant. See Exhibit 2, page 3. Indiana's TANF caseloads have decreased at the lowest rate in the nation -- six percent. Secretary Roob stated that Indiana has good policies in place, but they were just poorly executed. The new regulations require states to have higher work participation rates, and if the state does not meet these rates, the state will lose a portion of the state's TANF block grant and will be required to replace those lost dollars with state dollars in order to receive the remaining block grant funds. Indiana's numbers in work participation have been improving as a result of implementing a new system. Only one vendor is now used, and TANF recipients are placed into training the day they enroll in the program. Secretary Roob stated that Indiana is on the path of meeting the federal 50% work participation percentage required to not lose its funding. Indiana has a one year grace period and must meet this 50% percentage by 2009 or lose a portion of the funding in 2010.

ACS/IBM Modernization Update

FSSA distributed responses to written questions asked by the Commission concerning the modernization plan. See Exhibit 3. Secretary Roob testified that the recent flooding from Hurricane Ike has postponed further county rollouts until at least December. The next region to be rolled out is the Lake and Porter County area. FSSA staff is currently busy assisting those people affected by the flood and in need of assistance, including disaster food stamps. Commission members thanked Secretary Roob for his assistance in the June flood.

When asked about the cost of contracting out the changes versus FSSA performing the duties, Secretary Roob referred to Exhibit 2, page 6. Savings from contracting out the changes will not be realized until 2010 or 2011, or when the state achieves the 50% working requirement under TANF and does not lose the federal block grant funding.

In response to questions concerning Volunteer Community Assistance Networks (V-CAN), Secretary Roob stated that there are 1,260 organizations participating as V-CANs. When asked whether Indiana considered compensating these organizations like Florida does, Secretary Roob stated that they did not take Florida's approach because FSSA wanted to keep at least one county office in each county, unlike Florida. When asked whether this places a burden on V-CANS when they do not receive any compensation, Secretary Roob stated that medical providers participating in this capacity receive a stream of cash flow, so he is not concerned with this group. As far as the other group of participants, food banks and township trustees, that is a different matter and he is not opposed to compensation for them but is just trying to work within his budget.

Ms. Myra Wilkey, representing Mental Health America of Vigo County, stated that three of its programs were affected by FSSA's privatization, and her organization decided to participate as a V-CAN. However, this has resulted in problems for the organization:

clients distrust her colleagues when they are seen recording answers to questions in the computer. Staff has incurred a lot of overtime, which is costing the organization a lot of money. Face to face interviews have been almost completely cut out when some of the organization's clients really need this interaction to participate in the process. Clients are placed on hold and documents are lost. The application is now much longer and there is confusion as to whether those people who have been told they have lost their coverage under the program should reapply or appeal. Ms. Wilkey acknowledged that the organization is a voluntary participant and can stop participating at any time and that they underestimated the cost of participation.

Ms. Kay Walker, Center Township Trustee of Delaware County, expressed concerns on the effect of the changes on the community. Her township office acts a referral for V-CAN only because her office does not have time to take on these additional responsibilities. Although she has seen some improvements, Ms. Walker stated that there are still many inaccuracies and lost documents. Often, the online information is inconsistent with information provided by a live person. Secretary Roob has offered to assist her in fixing the problems by placing a staff member in her office, but she is concerned for the other areas and food banks that don't have this assistance. When asked how much the changes are costing the township trustee's office, she stated that this is hard to quantify since those denied food stamps sometime purchase food but then ask her office for assistance in paying utility bills or shelter.

When asked how much money has been spent on the contract with First Data, the company monitoring the ACS contract, Secretary Roob stated approximately \$3.4 million so far. Secretary Roob stated that the Indiana Department of Administration oversaw the bid for this contract and would check on whether the bid included minority business enterprises. The contract began in May, 2007. Chairperson Crawford requested the deliverables from the contract by September 30, 2008.

Managed Care Organizations (MCO)

Chairperson Crawford provided Commission members with questions that he has submitted for responses by all of the Medicaid MCOs by September 30, 2008. See Exhibit 4.

Chairperson Crawford asked Secretary Roob what is happening with the MCO pharmacy carve out, stating that the Commission asked this in its written questions to FSSA and was not told about a study being conducted by FSSA's actuary, Milliman. Secretary Roob stated that FSSA has looked at a pharmacy carve out for the Hoosier Healthwise population (pregnant women and children) since 2002. Currently, the pharmacy benefit for this population is included in the monthly cap provided to the MCO for the recipient. In determining whether to change this, FSSA has asked various interested parties whether a change would detrimentally affect the patient. So far, nobody had argued that a change would inhibit quality of care. The goal is to standardize the formulary and step away from a system where there are four pharmacy formularies for this population, depending on whether the recipient participates in Medicaid fee for service program or depending on which of the three MCOs the recipient uses. FSSA is studying what the monetary ramifications would be with a change. Secretary Roob stated that there has been no decision yet as to whether to make this change. Chairperson Crawford requested that FSSA keep the Commission updated on this issue and involve the Commission in the process. The Commission was informed that Pennsylvania and Delaware have rejected using this pharmacy carve out approach.

When asked whether all of the MCOs would be able to accept web based billing, Secretary Roob stated that FSSA has been told by the MCOs that they will be able to do this by January 1, 2009. Managed Health Services (MHS) stated that it would meet this requirement by October 1, 2008.

Other Matters

Chairperson Crawford asked Secretary Roob whether FSSA was considering changing nursing home admissions to prohibit Medicaid patients with the four lowest levels of acute care from being admitted to nursing homes. Chairperson Crawford questioned how this would impact Alzheimer's patients, and rural areas with little to no access to home and community-based care. Secretary Roob stated that FSSA discussed this issue in the Health Finance Commission because the subject came up in FSSA's testimony regarding the implementation of home and community based care. Secretary Roob stated that they have identified about 1200 individuals currently in nursing homes that, based on the individual's Resource Utilization Grouping (RUG) scores, may be able to live outside of a nursing home setting. FSSA is considering changing nursing home reimbursement so that it is based on RUG scores. FSSA just began talking to the nursing home associations and the Area Agencies on Aging about this concept.

Vince McGowen, representing Hoosier Owners and Providers for the Elderly (HOPE), stated that his concern with shifting the nursing home reimbursement in this manner is what will happen to the patient if the infrastructure to provide home and community based care is not available and the nursing homes are offered a reimbursement that creates a disincentive to accept these patients? Mr. McGowen commented on the Closure and Conversion fund and that the nursing homes have been told by FSSA that the \$34 million that was supposed to be available in this fund is not available. The capped rates that were implemented harmed nursing homes who have high care patients and these nursing homes wanted to use the money from the fund to cover the \$12 million in losses that they have incurred.

Secretary Roob stated that the goal is to use nursing home rates to encourage the direction of home and community based care, and that the Legislature has directed FSSA to move in this direction through passage of SEA 493-2003. Chairperson Crawford stated that he is concerned about the infrastructure being in place and referred to the past decision to de-institutionalize mental health when outside mental health services were not available.

Secretary Roob reminded Commission members that the increase in the Children's Health Insurance Program (CHIP) eligibility percentage to 250% would occur on October 1, 2008.

Bill Drafts for Commission Consideration

The Commission was informed that the Commission would be voting on possible legislation and the final report at the next meeting. If Commission members could not attend the meeting on October 22, 2008, please let staff members know. Any Commission member who would like to have a bill draft considered at the next meeting should inform staff by October 5, 2008 so that staff can prepare the bill draft and distribute to Commission members before the next meeting. Senator Miller said she would work on a bill draft concerning the IGT issues addressed at today's meetings.

The meeting was adjourned at 12:15 p.m.